

**DAVID JONES**

VS.

Respondent

AND

**A.I.A.C.**

Insurance Carrier

## ISSUES

The sole issue presented to the Appeals Board for review is whether the claimant's injury arose out of and in the course of his employment with the respondent.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Having studied the whole evidentiary record filed herein and, in addition, the briefs and arguments of the parties, the Appeals Board makes the following findings of fact and conclusions of law:

The Administrative Law Judge found claimant entitled to a permanent partial disability to his right lower extremity based upon a nine percent (9%) functional impairment rating. There is no dispute that claimant experienced an incident at work which resulted in injury to his right knee. The dispute centers around whether claimant's injury arose "out of" his employment. Respondent argues that claimant suffered a spontaneous injury from simply walking while on the job. The history contained in the records of T. Scott Webb, D.O., the first physician to see the claimant following his injury, would suggest such a scenario. That history is supported by the testimony of both Dr. Webb and his nurse, Janet Schmidtberger, R.N. On the other hand, the testimony of the claimant, his wife, the radiologist, John Cecil, III, M.D., that saw claimant on the same day as he was seen by Dr. Webb, and the treating orthopedic surgeon, Gregory A. Woods, M.D., all describe a history of claimant slipping and twisting his knee while in the course of his employment with the respondent working in an oil field on a pulling unit.

Dr. Woods diagnosed a complex bucket-handle tear of the medial meniscus for which he performed arthroscopic surgery. Dr. Woods testified that it would be unlikely for a person of claimant's age with no other history of preexisting knee injury to tear a meniscus by just walking along. Claimant had no significant degenerative changes of the knee or kneecap, nor any evidence of previous injury to the knee. The Appeals Board finds the medical opinion of Dr. Woods to be the most credible and persuasive on the issue of causation and finds that claimant's injury did arise "out of" his employment with the respondent.

The Award of the Administrative Law Judge sets out the facts and conclusions of law in some detail and it is not necessary to repeat those herein. The Appeals Board finds the findings and conclusions, as enumerated in the Award of the Administrative Law Judge, to be accurate, appropriate and adopts the same as its own findings as if specifically set forth herein. The Appeals Board further adopts the analysis of the Administrative Law Judge regarding the finding of the accident arising out of and in the course of claimant's employment and regarding the nature and extent of claimant's resulting disability.

#### **AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge George R. Robertson, dated November 30, 1994, should be, and is hereby, affirmed in all respects, and the orders contained in the Award are hereby adopted by the Appeals Board as its own.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of May, 1995.

---

BOARD MEMBER

---

BOARD MEMBER

---

BOARD MEMBER

c: Robert L. Earnest, Russell, Kansas  
James M. McVay, Great Bend, Kansas  
George R. Robertson, Administrative Law Judge  
George Gomez, Director